

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

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|------------------------|---|---------------------------|
| PATRICIA MALONE, |) | |
| |) | |
| Plaintiff, |) | |
| |) | No. 2:18-cv-02251-TLP-dkv |
| v. |) | |
| |) | |
| SHELBY COUNTY, ET AL., |) | JURY DEMAND |
| |) | |
| Defendants. |) | |
| |) | |

**ORDER ADOPTING THE REPORT AND RECOMMENDATION; ORDER
DISMISSING PLAINTIFF’S FEDERAL CLAIMS SUA SPONTE FOR FAILURE TO
STATE A CLAIM ON WHICH RELIEF MAY BE GRANTED, DISMISSING
PLAINTIFF’S STATE LAW CLAIMS FOR LACK OF SUBJECT MATTER
JURISDICTION, CERTIFYING THAT AN APPEAL WOULD NOT BE TAKEN IN
GOOD FAITH, AND DENYING LEAVE TO PROCEED IN FORMA PAUPERIS ON
APPEAL**

Before the Court is the Chief Magistrate Judge’s Report and Recommendation for Sua Sponte Dismissal (ECF No. 8) based upon the screening of Plaintiff Patricia Malone’s (“Plaintiff”) pro se Complaint (ECF No. 1) under 28 U.S.C. § 1915(e)(2). In the Report and Recommendation, the Chief Magistrate Judge recommends that the Court dismiss Plaintiff’s federal claims sua sponte for failure to state a claim on which relief may be granted under Federal Rule of Civil Procedure 12(b)(6) and § 1915(e)(2)(ii). The Chief Magistrate Judge also recommends that Plaintiff’s state law claims be dismissed for lack of subject matter jurisdiction.

Pursuant to Federal Rule of Civil Procedure 72(b)(2), “[w]ithin 14 days after being served with a copy of the recommended disposition, a party may serve and file specific

written objections to the proposed findings and recommendations.” Fed. R. Civ. P. 72(b)(2). No objections to the Report and Recommendation have been filed, and the time for filing objections has expired. *See* Fed. R. Civ. P. 5(b)(2), 6(d), 72(b)(2).

“When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Fed. R. Civ. P. 72(b) advisory committee notes. On clear-error review of the Chief Magistrate Judge’s Report and Recommendation, the Court hereby ADOPTS the Report and Recommendation (ECF No. 8) in its entirety.

Thus, the Court ORDERS sua sponte that Plaintiff’s federal claims are DISMISSED WITH PREJUDICE. The Court further ORDERS that Plaintiff’s state law claims are DISMISSED for lack of subject matter jurisdiction. Judgment will be entered accordingly.

Federal Rule of Appellate Procedure 24(a)(3) provides that a party who was permitted to proceed in forma pauperis in the district court action may proceed on appeal in forma pauperis without further authorization unless the district court certifies that the appeal is not taken in good faith. If the district court certifies that an appeal would not be taken in good faith, or otherwise denies leave to appeal in forma pauperis, the party must file her motion to proceed in forma pauperis in the appellate court. *See* Fed. R. App. P. 24(a) (4)-(5).

Here, for the same reasons that the Court adopts the Chief Magistrate Judge’s recommendation that Plaintiff’s federal claims be dismissed for failure to state a claim on which relief may be granted (*see* ECF No. 8 at PageID 36–40), the Court determines that any appeal would not be taken in good faith.

It is therefore CERTIFIED, under Fed. R. App. P. 24(a), that any appeal in this matter would not be taken in good faith, and leave to appeal in forma pauperis is DENIED.

SO ORDERED, this 8th day of August, 2018.

s/ Thomas L. Parker

THOMAS L. PARKER
UNITED STATES DISTRICT JUDGE